Summary: Rider 180 in the General Appropriations Act for 2018-2019, Article II required HHSC to change the definition of rural hospitals for purposes of changing hospitals' eligibility for targeted rural payments. HHSC proposed rules to implement this change by the beginning of the biennium; September 1, 2017. HHSC included this item as an information item in the June Hospital Payment Advisory Committee (HPAC) and the June Medical Care Advisory Meeting (MCAC) held this week. MCAC recommended to HHSC that the rural changes be transitioned in to allow time for the affected hospitals to prepare for reductions in their Medicaid payments. UT Southwestern is the only THOT member affected by this rule.

HPAC video here: https://texashhsc.swagit.com/play/06082017-1108
MCAC video here: https://texashhsc.swagit.com/play/06152017-536

| | |
|---|---|
| TITLE 1 | ADMINISTRATION |
| PART 15 | TEXAS HEALTH AND HUMAN SERVICES COMMISSION |
| CHAPTER 355 | REIMBURSEMENT RATES |
| SUBCHAPTER J | PURCHASED HEALTH SERVICES |
| DIVISION 4 | MEDICAID HOSPITAL SERVICES |
| §355.8052 | Inpatient Hospital Reimbursement. |

PROPOSED PREAMBLE

The Texas Health and Human Services Commission (HHSC) proposes amendments to §355.8052, concerning Inpatient Hospital Reimbursement.

BACKGROUND AND PURPOSE

The proposed amendment to §355.8052 revises the definition of a rural hospital.

The amendment to this rule is proposed to comply with the 2018-19 General Appropriations Act (Article II, S.B. 1, 85th Legislature, Regular Session, 2017, Section 180[i]), which allocates certain funds appropriated to HHSC to provide increased reimbursement for rural hospitals. The rider contains a definition of a rural hospital for purposes of allocating the appropriated funds.

Currently, the rule defines a rural hospital as a hospital in a county with 60,000 or fewer persons based on the 2010 decennial census, a hospital designated by Medicare as a Critical Access Hospital (CAH), a Sole Community Hospital (SCH), or a Rural Referral Center (RRC). To comply with the appropriations rider, the proposed amendment changes this to define a rural hospital as (1) a hospital located in a county with 60,000 or fewer persons according to the 2010 U.S.

Census; or (2) a hospital designated by Medicare as a Critical Access Hospital (CAH), Sole Community Hospital (SCH), or a Rural Referral Center (RRC) that is not located in a Metropolitan Statistical Area (MSA), as defined by the U.S. Office of Management and Budget; or (3) a hospital that (a) has 100 or fewer beds, (b) is designated by Medicare as a CAH, SCH, or RRC, and (c) is located in an MSA.

**REVIEW SUMMARY:**
The primary change was the Rural hospital definition change to comply with the Rider 180, and restrict the allowable hospitals that qualify as a rural hospital and the related special inpatient and outpatient reimbursement. This change requires that a CAH, SCH or RRC that is located in a Metropolitan Statistical Area (MSA) to be under 100 beds. The change in the definition is related to the recent increase in hospitals in urban areas becoming eligible as RRC. The hospitals that exceed 275 beds have been able to qualify without many additional requirements (e.g., such as having a specific percentage of rural referrals). There have been at least 9 urban hospitals that have been able to qualify as rural hospitals and many more seeking this eligibility as RRCs. The rule change has affected 1 SCH and HHSC has been requested to seek additional legislative intent to determine if CAH and SCH should have been included. Based on the current rule there appears to be only one THOT member impacted by the rule change and this is UT Southwestern located in Dallas County.

| | |
|---|---|
| TITLE 1 | ADMINISTRATION |
| PART 15 | TEXAS HEALTH AND HUMAN SERVICES COMMISSION |
| CHAPTER 355 | REIMBURSEMENT RATES |
| SUBCHAPTER J | PURCHASED HEALTH SERVICES |
| DIVISION 11 | TEXAS HEALTHCARE TRANSFORMATION AND QUALITY IMPROVEMENT PROGRAM REIMBURSEMENT |
| §355.8201 | Waiver Payments to Hospitals for Uncompensated Care |

PROPOSED PREAMBLE

The Texas Health and Human Services Commission (HHSC) proposes amendments to §355.8201, concerning Waiver Payments to Hospitals for Uncompensated Care, to revise the definition of a Rider 38 hospital.

BACKGROUND AND PURPOSE

The definition of a "Rider 38 hospital" in the current rule was adopted to conform to the definition of "rural hospital" contained in the General Appropriations Act for the 2014-15 biennium (S.B. 1, 83rd Leg., R.S., 2013, Article II, Health and Human Services Commission, Rider 38). The same definition was contained in the General Appropriations Act for the 2016-17 biennium (H.B. 1, 84th Leg., R.S., 2015, Article II, Special Provisions Relating to All Health and Human Services Agencies, Section 58). The definition was changed during the recent legislative session, which is the reason HHSC proposes to amend the rule.

The General Appropriations Act for the 2018-19 biennium (S.B. 1, 85th Leg., R.S.,

2017, Article II, Health and Human Services Commission, Rider 180) revises the definition of a rural hospital to be: (1) a hospital located in a county with 60,000 or fewer persons according to the 2010 U.S. Census; or (2) a hospital designated by Medicare as a Critical Access Hospitals (CAH), a Sole Community Hospital (SCH), or a Rural Referral Center (RRC) that is not located in a Metropolitan Statistical Area (MSA); or (3) a hospital that (a) has 100 or fewer beds, (b) is designated by Medicare as a CAH, a SCH or a RRC, and (c) is located in an MSA.

Concurrently with this proposed rule amendment (elsewhere in this issue of the *Texas Register*), HHSC proposes amending §355.8052, Inpatient Hospital Reimbursement, to revise the definition of rural hospital consistent with Rider 180. For consistency in the use of terms in the administrative rules, HHSC proposes to revise §355.8201 to substitute the term "Rural hospital" for "Rider 38 hospital" throughout the rule and to define "Rural hospital" by reference to the definition in §355.8052.

REVIEW SUMMARY:

The primary change in 355.8201 was to replace "Rider 38 hospital" to "rural hospital" or "Rider 38" to "rural" throughout the rule. This change requires that hospitals that qualified as Rider 38 be consistently applied to the proposed 355.8052 Rural hospital definition. The "Rider 38 hospitals" receive special dispensation related to the amount of "haircut" that can be applied to their remaining UC HSL, and limits the reduction to the percentage of the reduction in the pool size from the DY 2 pool. This change will maintain the consistency between the 2 rules and align the naming convention between the rules.

Based on the current rule there appears to be only one THOT member impacted by the rule change and this is UT Southwestern located in Dallas County.

---

[i] 180. Hospital Payments. Included in amounts appropriated above to the Health and Human Services Commission (HHSC) in all Strategies in Goal A, Medicaid Client Services, is $52,428,845 in General Revenue Funds, $101,660,775 in Interagency Contracts, and $202,778,300 in Federal Funds ($356,867,920 in All Funds) in fiscal year 2018 and $50,943,604 in General Revenue Funds, $101,660,775 in Interagency Contracts, and $205,104,053 in Federal Funds ($357,708,432 in All Funds) in fiscal year 2019 to provide Medicaid hospital add on payments for trauma care, safetynet hospitals, and rural hospitals and allocated between hospital types as follows:

a. $77,742,620 in Interagency Contracts and $102,307,451 in Federal Funds in fiscal year 2018 and $75,257,380 in Interagency Contracts and $101,147,777 in Federal Funds in fiscal year 2019 for trauma care;
b. $40,428,845 in General Revenue Funds, $23,918,155 in Interagency Contracts, and $84,679,132 in Federal Funds in fiscal year 2018 and $37,943,604 in General Revenue Funds, $26,403,395 in Interagency Contracts, and $86,483,955 in Federal Funds in fiscal year 2019 for safety-net hospitals; and

c. $12,000,000 in General Revenue Funds and $15,791,717 in Federal Funds in fiscal year 2018 and $13,000,000 in General Revenue Funds and $17,472,321 in Federal Funds in fiscal year 2019 for rural hospitals.

HHSC shall develop a methodology to implement the add-on payments pursuant to funding identified in subsection (b) that targets the state's safety-net hospitals, including those hospitals that treat high percentages of Medicaid and low-income, uninsured patients. Total reimbursement for each hospital shall not exceed its hospital specific limit.

For purposes of subsection (c), rural hospitals are defined as (1) hospitals located in a county with 60,000 or fewer persons according to the 2010 U.S. Census; or (2) a hospital designated by Medicare as a Critical Access Hospital (CAH), a Sole Community Hospital (SCH), or a Rural Referral Center (RRC) that is not located in a Metropolitan Statistical Area (MSA); or (3) a hospital that has 100 or fewer beds, is designated by Medicare as a CAH, a SCH, or a RRC, and is located in an MSA. Payments to rural hospitals from funds identified in subsection (c) may include a combination of increases in or add-ons to any or all of the following: general outpatient reimbursement rates, outpatient emergency department services that do not qualify as emergency visits, the outpatient hospital imaging services fee schedule, and the outpatient clinical laboratory services fee schedule. No reimbursement may exceed the hospital specific limit and reimbursement for outpatient emergency department services that do not qualify as emergency visits may not exceed 65 percent of cost.

To the extent possible, HHSC shall ensure any funds identified in this rider that are included in Medicaid managed care capitation rates are distributed by the managed care organizations to the hospitals. The expenditure of funds identified in this rider that are not used for targeted increases to hospital provider rates as outlined above shall require the prior written approval of the Legislative Budget Board.